



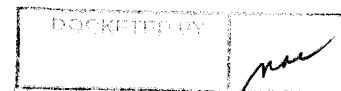
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William A. Mundell
Commissioner - Chairman
Jim Irvin
Commissioner
Marc Spitzer
Commissioner

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AZ CORP COMMISSION
DOCUMENT CONTROL

BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE APPLICATION
OF ARIZONA WATER COMPANY, AN
ARIZONA CORPORATION, TO EXTEND
ITS EXISTING CERTIFICATE OF
CONVENIENCE AND NECESSITY AT
MIAMI, GILA COUNTY, ARIZONA

DOCKET NO. W-01445A-01-0546_

EXCEPTIONS TO THE
ADMINISTRATIVE LAW JUDGE'S
NOVEMBER 8, 2001
RECOMMENDATION

ARIZONA WATER COMPANY (the "Company") files its Exceptions to the November 8, 2001 Recommendation of the Administrative Law Judge in the above-referenced docket. A copy of the Recommendation is attached to these Exceptions as Attachment A for ease of reference.

Conclusion of Law No. 6 in the Recommendation reads as follows:

"Staff's recommendations in Finding of Fact No. 7 are reasonable and should be adopted."

Recommendation, at page 3. This Conclusion of Law is carried over to the ordering portion of the Order; specifically, the third ordering paragraph reads as follows:

"IT IS FURTHER ORDERED that Arizona Water shall file its ADEQ Certificates of "Approval to Construct" within 365 days of the effective date of this Decision."

Recommendation, at page 4.

Finding of Fact No. 7, subparagraph c, refers to the August 31, 2001 Staff Report as the source of a Staff recommendation that the Company file copies of its ADEQ Approvals to Construct for facilities within the extension area. In fact, the Staff Report, a copy of which is

1 attached to these Exceptions as Attachment B, does not contain such a recommendation. More
2 importantly, even if it did, Staff would recognize that, unlike city or county franchises, ADEQ
3 approvals to construct for an entire expansion area cannot be obtained within 365 days of the
4 effective date of a Commission Decision.

5 Water providers obtain ADEQ Approvals to Construct as the need to construct additional
6 facilities arises. The timing for requesting approvals varies, as a water provider cannot predict
7 how development in a certificated area will proceed. For that reason, it may be more than one
8 year before any approval to construct is necessary, and it will certainly be more than 365 days
9 before the development of the entire extension area is completed.

10 The Company will obtain approvals to construct for the expansion area as they are
11 needed, and the Company has no objection to furnishing copies of such approvals to the Staff.

12 For these reasons, the Company submits that the Recommendation should be amended by
13 deleting the third ordering paragraph, i.e., lines 5 through 6 at page 4.

14 RESPECTFULLY SUBMITTED this 15th day of November, 2001.

15 ARIZONA WATER COMPANY

16
17 By: Robert W. Geake
18 Robert W. Geake
19 Vice President and General Counsel
20 ARIZONA WATER COMPANY
Post Office Box 29006
Phoenix, Arizona 85038-9006

21 Original and ten (10) copies of the foregoing Exceptions filed this 15th day of November, 2001
22 with:

23 Docket Control Division
24 Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

25 One (1) copy of the foregoing Exceptions was hand-delivered this 15th day of November,
26 2001 to:

1 Honorable Philip J. Dion
2 Adminstrative Law Judge
3 Hearing Division
4 Arizona Corporation Commission
5 1200 West Washington Street
6 Phoenix, AZ 85007

7 A copy of the foregoing was mailed this 15th day of November, 2001 to:

8 Christopher Kempley, Chief Counsel
9 Legal Division
10 Arizona Corporation Commission
11 1200 West Washington Street
12 Phoenix, Arizona 85007

13 Steve Olea
14 Acting Director, Utilities Division
15 Arizona Corporation Commission
16 1200 West Washington Street
17 Phoenix, Arizona 85007

18 By: Robert W. Deake

19

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ATTACHMENT A

WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER



BRIAN C. McNEIL
EXECUTIVE SECRETARY

ARIZONA CORPORATION COMMISSION

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NOV 14 2001

DATE: November 8, 2001

DOCKET NOS: W-01445A-01-0456

ARIZONA WATER COMPANY
PHOENIX - ENGINEERING

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Philip J. Dion III. The recommendation has been filed in the form of an Opinion and Order on:

ARIZONA WATER COMPANY
(CC&N EXTENSION)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

NOVEMBER 19, 2001

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

NOVEMBER 27 AND 28, 2001

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250.


BRIAN C. McNEIL
EXECUTIVE SECRETARY

BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER

RECEIVED
NOV 14 2001

ARIZONA WATER COMPANY
PHOENIX - ENGINEERING

IN THE MATTER OF THE APPLICATION OF
ARIZONA WATER COMPANY TO EXTEND ITS
CERTIFICATE OF CONVENIENCE AND
NECESSITY AT MIAMI, GILA COUNTY,
ARIZONA.

DOCKET NO. W-01445A-01-0546

DECISION NO. _____

OPINION AND ORDER

DATE OF HEARING: October 10, 2001
PLACE OF HEARING: Phoenix, Arizona
ADMINISTRATIVE LAW JUDGE: Philip J. Dion III
APPEARANCES: Mr. Robert W. Geake, on behalf of Arizona Water Company; and
Mr. Jason Gellman, Staff Attorney, Legal Division, on behalf of the Utilities Division of the Arizona Corporation Commission.

BY THE COMMISSION:

On July 10, 2001, Arizona Water Company ("AWC" or "Applicant") filed with the Arizona Corporation Commission ("Commission") an application for approval to extend its Certificate of Convenience and Necessity ("Certificate") to provide water service to an additional area in Gila County, Arizona.

Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes and orders that:

FINDINGS OF FACT

1. AWC is an Arizona corporation that provides water utility service to portions of Gila, Navajo, Cochise, Maricopa, Pima, Yavapai, Coconino and Pinal counties in Arizona. AWC was granted its Certificate in Decision No. 28794 (March 1955).

2. On July 10, 2001, AWC filed an application for an extension of its existing Certificate to provide water service to approximately 6,400 acres of property, which is more accurately

1 described in Exhibit A, attached hereto and included herein by reference. The area includes
2 approximately 10 sections of land near Miami, towards Roosevelt Lake along State Highway 88.

3 3. On July 18, 2001, the Commission's Utilities Division Staff ("Staff") filed a
4 sufficiency letter indicating that AWC's application has met the sufficiency requirements per
5 Commission rules.

6 4. On August 6, 2001, a Procedural Order was issued setting the matter for hearing on
7 October 10, 2001.

8 5. On September 11, 2001, AWC filed an Affidavit of Mailing indicating that all
9 property owners in the proposed extension area were notified of the application and hearing date.

10 6. No intervention requests or objections to the application were filed.

11 7. On August 31, 2001, Staff filed its Staff Report in this matter recommending approval
12 of the application. The Staff Report recommends approval of the application subject to the
13 conditions that:

- 14 a) AWC charge its existing rates and charges in the proposed extension
15 area;
- 16 b) AWC file copies of its Arizona Department of Environmental Quality
17 ("ADEQ") Approvals to Construct for facilities within the extension
18 area for the subject facilities; and,
- 19 c) AWC file a copy of the associated City and County franchise
20 agreements within 365 days of the effective date of the Decision in this
21 matter.

22 8. A hearing was held on October 10, 2001, pursuant to the Procedural Order dated May
23 30, 2001. Michael Whitehead testified on behalf of AWC and Jim Fisher testified on behalf of Staff.
24 AWC agreed to abide by the recommendations in the Staff Report.

25 9. AWC currently has an eight-inch pipeline that runs along State Highway 88. The
26 pipeline was established in the early 1970s.

27 10. AWC is currently providing service from the eight-inch pipeline to approximately 50
28 residential customers in the requested extension area.

11. Although AWC indicated that it does not know of any future or anticipated
developments in the area for which AWC is requesting a Certificate, it estimates that it will serve

1 approximately 100 customers in the next five years.

2 12. AWC has not received any additional requests for service within the proposed
3 extension area.

4 13. There are no other public service corporations or municipality owned water systems
5 authorized to provide or providing service in the proposed extension area.

6 14. AWC has adequate production and storage facilities to serve its existing customers
7 and the anticipated additional customers in the extension area, and is financially capable of
8 constructing, operating and maintaining any additional facilities necessary to provide service to the
9 extension area.

10 15. AWC is current on its property and sales taxes.

11 16. AWC is current on all of its filings with the Commission.

12 17. AWC is in compliance with ADEQ and is delivering water that does not exceed any
13 maximum contaminant levels. In addition, according to ADEQ, AWC currently delivers water that
14 meets the water quality standards of the Safe Drinking Water Act.

15 18. Staff testified that approval of the application would serve the public interest.

16 **CONCLUSIONS OF LAW**

17 1. AWC is a public service corporation within the meaning of Article XV of the Arizona
18 Constitution and A.R.S. § 40-281 *et seq.*

19 2. The Commission has jurisdiction over AWC and the subject matter of the application.

20 3. Notice of the application was provided in accordance with law.

21 4. There is a public need and necessity for water utility services in the proposed
22 extension area.

23 5. AWC is a fit and property entity to receive an extension of its water Certificate which
24 encompasses the area more fully described in Exhibit A attached hereto.

25 6. Staff's recommendations in Findings of Fact No. 7 are reasonable and should be
26 adopted.

27 **ORDER**

28 IT IS THEREFORE ORDERED that the application of Arizona Water Company for an

extension of its Certificate of Convenience and Necessity to include the area described in Exhibit A attached hereto and incorporated herein by reference be, and is hereby granted.

IT IS FURTHER ORDERED that Arizona Water Company shall charge its existing rates and charges in the extension area until further Order of the Commission.

IT IS FURTHER ORDERED that Arizona Water shall file its ADEQ Certificates of "Approval to Construct" within 365 days of the effective date of this Decision.

IT IS FURTHER ORDERED that Arizona Water Company shall file a copy of its City and County franchises within 365 days of the effective date of this Decision.

IT IS FURTHER ORDERED that in the event Arizona Water Company fails to meet the above conditions within the time specified, then such area for which it has applied for an extension of its Certificate of Convenience and Necessity shall be deemed to be denied, without further Order of the Arizona Corporation Commission.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this ____ day of ____, 2001.

BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT
PJD:mlj

1 SERVICE LIST FOR:

ARIZONA WATER COMPANY

2 DOCKET NO.:

W-01445A-01-0546

3

4 Robert W. Geake
ARIZONA WATER COMPANY
P.O. Box 29006
5 Phoenix, Arizona 85007

6 Christopher Kempley, Chief Counsel
Legal Division
7 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
8 Phoenix, Arizona 85007

9 Ernest G. Johnson, Director
Utilities Division
10 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
11 Phoenix, Arizona 85007

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PARCEL 1

Sections 4, 5, 8, 9, the North half and the SW $\frac{1}{4}$ of Section 16, 17, the East half of the West half of Section 21, all in Township 1 North, Range 15 East of the Gila and Salt River Base and Meridian, Gila County, Arizona.

PARCEL 2

Sections 28, 29, 32 & 33, all in Township 2 North, Range 15 East of the Gila and Salt River Base and Meridian, Gila County, Arizona.

EXHIBIT A

DECISION NO. _____

ATTACHMENT B

MEMORANDUM

TO: Docket Control
Arizona Corporation Commission

FROM: Steve Olea
Acting Director
Utilities Division

Date: August 20, 2001

RE: ARIZONA WATER COMPANY - APPLICATION FOR AN EXTENSION
OF ITS CERTIFICATE OF CONVENIENCE AND NECESSITY (CC&N)
TO PROVIDE WATER SERVICE IN GILA COUNTY, ARIZONA
(DOCKET NO. W-01445A-01-0546)

Attached is the Staff Report for the above referenced application. Staff is recommending approval of the application following a hearing.

Originator: Jim Fisher

Attachment: Original and Eleven Copies

STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION

ARIZONA WATER COMPANY APPLICATION FOR AN EXTENSION OF ITS
CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE WATER SERVICE
IN GILA COUNTY, ARIZONA

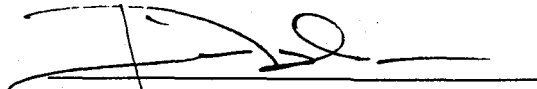
DOCKET NO. W-01445A-01-0546

AUGUST 2001

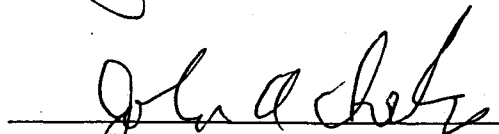
STAFF ACKNOWLEDGEMENT

The Staff members designated below contributed elements of this Staff Report.

Contributing Staff:



Jim Fisher
Executive Consultant II



John Chelus
Utilities Engineer

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Introduction

On July 10, 2001, Arizona Water Company ("AWC") filed an Application for an Extension of its Certificate of Convenience and Necessity ("CC&N") to portions of Gila County, for water services with the Arizona Corporation Commission ("ACC").

Background

AWC is an Arizona corporation, authorized by the ACC to provide water service through authorized CC&Ns within portions of Gila, Navajo, Cochise, Maricopa, Pima, Yavapai, Coconino and Pinal counties, Arizona. The ACC initially authorized AWC a CC&N in 1955.

By this application AWC seeks to serve an additional eight sections adjacent to its existing service area for the Town of Miami in Gila County. AWC constructed production and transmission facilities to enhance services to its Miami customers. Subsequently, AWC was being requested by property owners to extend service to properties adjacent to AWC transmission facilities.

Currently, AWC provides water service to approximately 49 customers in the proposed extension area. AWC estimates that over the next five years 100 additional customers will require service from the extension area.

AWC owns and operates the facilities currently being used to serve these 49 customers, and will use the facilities to serve future customers. AWC is financially capable to construct, operate and maintain the facilities necessary to provide service to the extension area.

AWC will continue to charges its currently authorized rates and charges for its Miami system to the proposed extension area.

AWC is in compliance with the ACC's filing requirements and current on its property taxes.

AWC holds a Gila County franchise for a portion of the extension area. AWC will apply to the Gila County Board of Supervisors to amend its franchise to include the remaining portions of the extension area.

Capacity and ADEQ, ADWR Compliance

Staff has reviewed the AWC application with associated information provided by the Company. Based on this information, AWC has adequate production and storage facilities to serve its existing customers and any additional customers that are anticipated in the new area.

The Arizona Department of Environmental Quality ("ADEQ") has determined that this system is currently delivering water that meets water quality standards required by Arizona Administrative Code, Title 18, Chapter 4.

Staff Analysis

AWC is requesting eight sections of land to be included in its CC&N. AWC holds the CC&N on the south of proposed extension territory, and has substantial facilities traversing the length of the requested territory. The applicant is presently serving 49 customers in the requested area, and no other utility is seeking to serve any portion of the requested area. AWC is in compliance with ADEQ and ACC requirements. The Company is meeting a need for service and has demonstrated that it is a fit and proper company to serve the proposed extension area.

Recommendations

Staff recommends that the ACC grant approval of AWC's application to extend the CC&N consistent with the legal description provided.

Staff further recommends that the ACC require AWC to charge its existing rates and charges in the extension area.

Staff further recommends the ACC require AWC to file the associated County franchise agreement within 365 days of the effective date of the ACC Decision on this application.